

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

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TERRY L. SMITH,

)

Plaintiff,

)

v.

)

MICHAEL J. ASTRUE,
Commissioner of Social Security,

)

Defendant.

)

CIVIL ACTION NO.: CV506-031

O R D E R

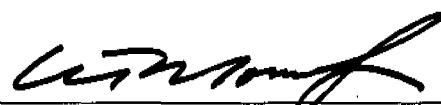
After an independent review of the record, the Court concurs with the Magistrate Judge's Report and Recommendation, to which Objections have been filed. In his Objections, Plaintiff asserts the only reason the Administrative Law Judge ("ALJ") discounted the opinion of his treating physician, Dr. Randall O'Brien, was because Plaintiff's worker's compensation attorney inquired of Plaintiff's limitations. Despite Plaintiff's assertions to the contrary, the ALJ rejected the opinion of Dr. O'Brien expressed in the letter written by Plaintiff's attorney to the extent Dr. O'Brien's opinion was contradicted by his own records.

Plaintiff also asserts the ALJ erred in finding the videotapes, which purportedly depicted Plaintiff, revealed Plaintiff's limitations. However, though the ALJ noted Plaintiff could lift no more than thirty (30) pounds at a time, the ALJ appears to have made a harmless error. It is clear the ALJ found Plaintiff could perform a significant range of work at the light exertional level, and this exertional level limits a person's lifting

ability to no more than twenty (20) pounds. See 20 C.F.R. § 416.967(b) (noting that light work involves, *inter alia*, lifting no more than 20 pounds at a time). The ALJ's determination that Plaintiff could perform a significant range of work at the light exertional level is supported by substantial evidence contained in the record, such as Dr. O'Brien's assessments of Plaintiff's ability to perform work at this level, the testimony and findings of the vocational expert, and Plaintiff's subjective allegations regarding his symptoms and resulting limitations.

Plaintiff's Objections are without merit. The Report and Recommendation of the Magistrate Judge, as supplemented herein, is adopted as the opinion of the Court. The decision of the Commissioner is **AFFIRMED**. The Clerk of Court is hereby authorized and directed to enter an appropriate Judgment of Dismissal.

SO ORDERED, this 17th day of May, 2007.



WILLIAM T. MOORE, JR., CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA